1943

File No. O. Pensions 43.

Legal Department

A **BRANCH**

Subject:— Opinions under the Pensions Act 1871

P4/6

File No. O Pensions/43

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C O N T E N T S.

Legal Department File No. J. Pensions /1943.

Sr.No.	R.I./O.No.	Subject	Pages.
		Opinions under the Pensions Act, 1871.	
1.	2739/14-4-43	Question whether Bond No. 1501 issued to the Manager of the Peer Gujbar Sahib Masjid of Rukkeri should be treated as one to which the Pensions Rules do not apply. ————	1-4

KAH/10-7.
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Office of the R.L.A.

The distinction between 'the interest of Devasthan compensation bonds' which are considered in R.L.A.'s opinion No. R-51 dated 28th January 1901 on the one hand and 'other Devasthan allowances or allowances in compensation for loss of ~~extinct~~ customs, salt, opium and excise rights' is that the former is in the nature of interest payable to a creditor who holds the bonds and the latter is in the nature of an allowance of bounty promised to be paid In other words Devasthan rights are fully settled and paid off in the former case by the issue of bonds of the full value of the compensation and no part of compensation remain payable; while in the latter case the rights are still not fully settled but part of compensation yet remains payable by a annual instalments. In the former case a suit can lie for recovery of the interest due annually on the bonds by way of a claim arising purely out of the contractual relation created by the bonds (see para. 2 of the letter of the Collector of ~~X~~ Ahmednagar No. 1391 of 1853 at page 117 of R.D. Volume 30 of 1853); while in the latter case a suit for recovery of the allowance is subject to the restrictions of the Pensions Act, 1871, in as much as the allowance is a bounty still payable in respect of the in respect of the commuted rights and therefore constitutes "grant of money" which is defined by section 3 of ~~the~~ the Act as anything payable on the part of Government in respect of any right, privilege perquisite of office.

2. Unless R.D. is able to throw any further light on the nature of the bonds which were considered in R.L.A.'s

opinion of 1901, R.L.A. would not be in a position to clarify that opinion any further or with any certainty. The R.L.A. would however point out that it is legally inexpedient to express an opinion on a question stated vaguely as at B on page 13 ante of R.D. note and he would prefer to wait wait for a concrete case with all its documents before advising as to the applicability or otherwide of the Pensions Act to the particular case.

Id/- P.N.M. 13/4

Remembrancer of Legal Affairs.

U.R. to R.D. No.2739, dated the 14th April 1943.

KAH/10-7.
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Office of the R.L.A.

It appears from the Government Resolution, R.D., No. 5638 of 1853 that the compensation bonds considered by the R.L.A. in his opinion of 1901 related to compensation for the loss of transit duties; and from the terms of those compensation bonds as stated in parggraph 2 of that opinion of that opinion of the R.L.A. it appears that those bonds are almost similar to the Bond No.1501 issued in 1855 by the Governor in Council of the Presidenty of Bombay on behalf of the East India Company to the Manager of the Peer Gujbar Sahib's Mujeed of Hookeree, Taluka Chikodee, District Belgaum (see page 19 ante) and there is hardly any distinction between them. Consequently the Bond No.1501 issued to the Manager of the Peer Gujbar Sahib Manjid of Hukkeri should have been similarly treated as one to which the Pension Rules do not apply. After receipt of the R.L.A.'s opinion of 1901 Government should have rectified the mistake and corrected the Cash Allowance Register. It does not however appear desirable at this stage to scrutinise the old entries in the Cash Allowance Register. The principle stated by the R.L.A. in 1901 and clarified by the presnetx R.L.A. in his last opinion No. 2739, dated 14th April 1943, may be kept in view while making any fresh entries.

Id/- P.N.M. 13/10

Remembrancer of Legal Affairs.

U.R. to R.D., No.6869, dated the 14th October 1943.

KAN/10-7.
4 c.